

EXHIBIT “A”

RECEIVED

SERVE
2021CVA001182C1

JUL 01 2021

GENERAL COUNSEL

CITATION
PLAINTIFF'S ORIGINAL PETITION

THE STATE OF TEXAS
COUNTY OF WEBB

COURT SET FOR 8/27/2021 AT 8:30 A.M

NOTICE TO THE DEFENDANT: "YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY. IF YOU OR YOUR ATTORNEY DO NOT FILE A WRITTEN ANSWER WITH THE CLERK WHO ISSUED THIS CITATION BY 10:00 A.M. ON THE MONDAY NEXT FOLLOWING THE EXPIRATION OF TWENTY DAYS AFTER YOU WERE SERVED THIS CITATION AND PETITION, A DEFAULT JUDGMENT MAY BE TAKEN AGAINST YOU. IN ADDITION TO FILING A WRITTEN ANSWER WITH THE CLERK, YOU MAY BE REQUIRED TO MAKE INITIAL DISCLOSURES TO THE OTHER PARTIES OF THIS SUIT. THESE DISCLOSURES GENERALLY MUST BE MADE NO LATER THAN 30 DAYS AFTER YOU FILE YOUR ANSWER WITH THE CLERK. FIND OUT MORE AT TEXASLAWHELP.ORG"

TO: JUAN MANUEL GRIMALDO MARTINEZ
3440 OAXACA
NUEVO LAREDO, MM 00000

TEXAS TRANSPORTATION COMMISSION
BY SERVING: J. BRUCE BUGG, JR., CHAIRMAN
OF THE TEXAS TRANSPORTATION COMMISSION AT TEXAS
125 E. 11TH STREET
AUSTIN, TEXAS 78701

DEFENDANT, IN THE HEREINAFTER STYLED AND NUMBERED CAUSE, YOU ARE HEREBY COMMANDED TO APPEAR BEFORE THE District-County Court At Law #1 of Webb County, Texas, to be held at the said courthouse of said county in the city of Laredo, Webb County, Texas, by filing a written answer to the Petition of Plaintiff at or before 10:00 O'CLOCK A.M. of the Monday next after the expiration of 20 days after the date of service thereof, a copy of which accompanies this citation, in the Cause #: 2021CVA001182C1, styled:

RUTH YAMILETH LABOY, PLAINTIFF
VS.

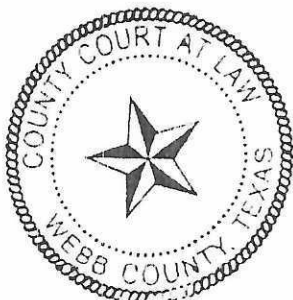
JUAN MANUEL GRIMALDO MARTINEZ AND AUTO TRANSPORTES FRONTERIZOS DE CARGA SA, DEFENDANTS

Said Plaintiff's Petition was filed on 06/23/2021 in said court by:

R. SCOTT MELLEN, ATTORNEY FOR PLAINTIFF
10500 HERITAGE BLVD, STE 102
SAN ANTONIO, TX 78216

WITNESS ESTHER DEGOLLADO, DISTRICT CLERK OF WEBB COUNTY, TEXAS, Issued and given under my hand and seal of said court at office, on this the 28th day of June, 2021.

C L E R K O F C O U R T



ESTHER DEGOLLADO
WEBB COUNTY DISTRICT CLERK
P.O. BOX 667
LAREDO, TX 78042

BY:

Annette Chapa

DEPUTY

07/01/21
B. S. S. S.
DSCW81

2021CVA001182C1

OFFICER'S RETURN

Came to hand on the 30 day of June, 2021 at
8:57 O'CLOCK P.M. Executed at
 _____, within the COUNTY of _____
 at _____ O'CLOCK _____ .M. on the _____ day of
 _____, 2021, by delivering to the within named **JUAN**
MANUEL GRIMALDO MARTINEZ, each, in person, a true copy of this
 citation together with the accompanying copy of the petition,
 having first attached such copy of such petition to such copy of
 citation and endorsed on such copy of citation the date of
 delivery.

The distance actually travelled by me in serving such process
 was _____ miles, and my fees are as follows:

Total Fee for serving this citation \$ _____.

To certify which, witness my hand officially.

 SHERIFF, CONSTABLE

 COUNTY, TEXAS

BY _____
 DEPUTY

THE STATE OF TEXAS}
 COUNTY OF WEBB }

Before me, the undersigned authority, on this day personally
 appeared _____, who after being duly
 sworn, upon oath said that a notice, of which the above is a
 true copy, was by him/her delivered to

_____ on the _____
 day of _____.

SWORN TO AND SUBSCRIBED BEFORE ME on the _____ day of
 _____, _____, to certify which witness my hand and
 seal of office.

 NOTARY PUBLIC
 MY COMMISSION EXPIRES

RECEIVED

JUL 01 2021

2021CVA001182C1

Filed
6/23/2021 8:59 AM
Esther Degollado
District Clerk
Webb District
Esmeralda Alvarado
2021CVA001182C1

GENERAL COUNSEL

CAUSE NO. _____

RUTH YAMILETH LABOY

Plaintiff,

V.

JUAN MANUEL GRIMALDO
MARTINEZ AND AUTO
TRANSPORTES FRONTERIZOS DE
CARGA SA
Defendants,

§
§
§
§
§
§
§
§
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§

IN THE COUNTY COURT

AT LAW OF

WEBB COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, RUTH YAMILETH LABOY, hereinafter called Plaintiff, complaining of and about JUAN MANUEL GRIMALDO MARTINEZ, hereinafter called Defendant Martinez, and AUTO TRANSPORTES FRONTERIZOS DE CARGA SA, herein called Defendant Auto Transportes, and for cause of action shows unto the Court the following:

I.
DISCOVERY CONTROL PLAN

1. Plaintiff intends that discovery be conducted under Discovery Level 3.

II.
JURISDICTION AND VENUE

2. The subject matter in controversy is within the jurisdictional limits of this court.
3. While Plaintiff believes that the valuation of the damages is uniquely within the purview of the jury, Plaintiff is required by Rule 47 of the Texas Rules of Civil Procedure to give an amount which is being sued for in this cause of action. Plaintiff seeks monetary relief more than \$500.00

but not exceeding \$250,000.00, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs.

4. This court has jurisdiction over the parties because Defendant is a Texas resident.

5. Venue in Webb County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

III. PARTIES AND SERVICE

6. Plaintiff, RUTH YAMILETH LABOY is an individual who is a resident of Laredo, Webb County, Texas. The last three digits of Plaintiff's Driver's License are: 879. The last three digits of Plaintiff's Social Security Number are: 692.

7. Defendant, JUAN MANUEL GRIMALDO MARTINEZ is an individual who is a resident of Nuevo Laredo, Mexico, whose address is 3440 Oaxaca, Nuevo Laredo, Mexico. Defendant, Martinez may be served with process by serving J. Bruce Bugg, Jr., Chairman of the Texas Transportation Commission at Texas at 125 E. 11th Street, Austin, Texas 78701.

8. Defendant, AUTO TRANSPORTES FRONTERIZOS DE CARGA SA is a foreign company doing business in the State of Texas and may be served by serving its registered agent, Armando Cantu, RT 3 Box 25 H, Laredo, Texas 78043, or wherever he may be found.

IV. FACTS

9. Plaintiff brings this lawsuit to recover damages arising out of a motor vehicle collision, which occurred on or about July 24, 2020. On this date, Plaintiff and Defendant Martinez, then in the course and scope of his employment by Defendant, AUTO TRANSPORTES were traveling

westbound on the 1000 block of Beltway Parkway. While Plaintiff was still traveling westbound on Beltway Parkway, Defendant attempted to make a right turn, northbound towards the 13500 block of Mercury causing the crash with Plaintiff's vehicle. Defendant failed to maintain a proper look out and failed to apply his brakes in a timely manner, which caused Defendant's vehicle to crash into Plaintiff's vehicle and cause injuries to Plaintiff.

V.
**PLAINTIFF'S CLAIM OF NEGLIGENCE
AGAINST DEFENDANT, JUAN MANUEL GRIMALDO MARTINEZ**

10. Defendant had a duty to exercise the degree of care a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein. Plaintiff's injuries were proximately caused by Defendant's negligent, careless, and reckless disregard of said duty, which consisted of, but are not limited to, the following acts and omissions:

- A. In that Defendant failed to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- B. In that Defendant failed to maintain a safe following distance so as to be able to bring his vehicle to a stop without colliding with the vehicle in front of him;
- C. In that Defendant failed to apply his brakes in a timely manner;
- D. In that Defendant was distracted;
- E. In that Defendant failed to take proper evasive action; and
- F. In that Defendant was operating his vehicle in a willful and wanton disregard for her safety and the safety of others.

Each of the foregoing acts and or omissions, singularly or in any combination with the other, constituted negligence, which proximately caused the occurrence made the basis of this action and Plaintiff's injuries and damages.

**VI.
RESPONDEAT SUPERIOR AS TO DEFENDANT,
AUTO TRANSPORTES FRONTERIZOS DE CARGA SA**

11. Defendant Auto Transportes is responsible for the actions of its employees while they are in the course and scope of their employment for Defendant Auto Transportes. At all times material to this cause of action, Defendant Martinez was an employee, agent, servant, or representative of Defendant Auto Transportes and was acting in the course and scope of his employment for Defendant Auto Transportes. Defendant Auto Transportes exercised actual and/or contractual control over the actions of its employee, Defendant Martinez.

12. As described herein, Defendant Martinez was negligent on the occasion in question. Defendant Martinez's negligence was the proximate cause of Plaintiff's damages.

**VII.
DAMAGES FOR PLAINTIFF, RUTH YAMILETH LABOY**

13. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff was caused to suffer such general and special injuries and damages as occurs to one severely injured. Plaintiff should recover the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services;
- B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
- C. Physical pain and suffering in the past;
- D. Physical pain and suffering in the future;
- E. Physical impairment in the past;

F. Physical impairment which, in all reasonable probability, will be suffered in the future;

G. Mental anguish in the past; and

H. Mental anguish in the future.

14. Plaintiff also seeks to recover prejudgment interest, post-judgment interest and court costs. Plaintiff's damages exceed the Court's jurisdictional minimum.

**VIII.
NOTICE OF INTENT TO USE RULE 193.7**

15. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff intends to use any documents produced by other parties through discovery and/or filed with the Court in any pretrial proceeding or at trial.

**IX.
NOTICE OF INTENT TO USE RULE 609(F)**

16. Pursuant to Rule 609(f) of the Texas Rules of Evidence, Plaintiff intends to use any criminal conviction of parties and or any other person who is expected to be called to testify at trial.

**X.
JURY DEMAND**

17. Plaintiff hereby demands a trial by jury.

**XI.
PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff, RUTH YAMILETH LABOY, respectfully pray Defendants, JUAN MANUEL GRIMALDO MARTINEZ and AUTO TRANSPORTES be cited to appear and answer herein, and upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the

Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

DAVIS LAW FIRM
10500 Heritage Blvd, Ste. 102
San Antonio, Texas 78216
Telephone: (210) 444-4444
Facsimile: (210) 568-8414

By: 

R. Scott Mellen
SBN: 24088046
scottm@davislaw.com

COURTESY NOTICE TO DEFENDANT

Your auto insurance policy with New Horizon Insurance entitles you to a defense to this action. Please forward a copy of this petition to your insurance company immediately and request they provide you with a proper defense.

New Horizon Insurance
Attn: Ana Rodriguez
1137 Key Street
Houston, Texas 77009
P: (346) 327-7824
E: ana.rodriquez@nhseguros.com

RE:

Insured:	Auto Transportes Fronterizos de Carga SA de CV
Claim No.:	102300
Date of Incident:	July 24, 2020

(2021-143)

2021CVA001182C1

RUTH YAMILETH LABOY	§	IN THE COUNTY COURT
	§	
VS.	§	
	§	AT LAW OF
JUAN MANUEL GRIMALDO MARTINEZ	§	
AND AUTO TRANSPORTES	§	
FRONTERIZOS DE CARGA SA DE CV	§	WEBB COUNTY, TEXAS

DEFENDANTS' ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Defendants, JUAN MANUEL GRIMALDO MARTINEZ and AUTO TRANSPORTES FRONTERIZOS DE CARGA SA DE CV, and hereby make and file this their Original Answer to Plaintiff's Original Petition and in support hereof would show the Court as follows:

I.

GENERAL DENIAL

1.1 Defendants deny each and every, all and singular, the allegations in Plaintiff's Original Petition, and say that they are not true, in whole or in part, and demand strict proof thereof on the trial of this cause.

WHEREFORE, PREMISES CONSIDERED, Defendants, JUAN MANUEL GRIMALDO MARTINEZ and AUTO TRANSPORTES FRONTERIZOS DE CARGA SA DE CV, respectfully pray that Plaintiff take nothing from these Defendants and that the Court enter a judgment dismissing all claims against these Defendants with prejudice and awarding all costs of court and expenses incurred herein, and for such other and further relief, at law and in equity, general or special, to which these Defendants might show themselves to be justly entitled to receive.

Respectfully submitted,

HODGE JAMES JILPAS & NICHOLS
Attorneys at Law
P.O. Box 534329 (78553)
1617 E. Tyler Ave., Suite A
Harlingen, Texas 78550
Telephone: (956) 425-7400
Facsimile: (956) 425-7707

/s/ Anthony B. James

Anthony B. James
State Bar No. 10537300
Email: ajames@hodgejames.com
Marco A. Jilpas
State Bar No. 24071331
Email: mjilpas@hodgejames.com
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing, Defendants' Original Answer, has been served on the 17th day of August, 2021, to all attorneys of record via E-Service as follows:

Via E-Service: scottm@davislaw.com
R. Scott Mellen
Davis Law Firm
10500 Heritage Blvd. Ste. 102
San Antonio, Texas 78216

Attorney for Plaintiff

/s/ Anthony B. James

Anthony B. James



HUGO D. MARTINEZ

Judge, County Court at Law No. 1
1110 Victoria St., Suite 303 (3rd Floor)
Laredo, Texas 78040
Office Telephone No. (956)523-4340
Fax No. (956)523-5058

June 24, 2021

CAUSE NO.: 2021CV0001182C1

STYLE: RUTH YAMILI TIL LABOY

VS

JUAN MANUEL GRIMALDO MARTINEZ; AUTO TRANSPORTES FRONTERIZOS DE CARGA SA

NOTICE OF CALENDAR CALL

Please take notice that this case is set for Calendar Call on 08/27/2021 at 8:30 AM at the County Court at Law No. 1, 3rd Floor, Webb County Justice Center.

All Calendar Call hearings will be in open court and on the record before the Honorable Judge Hugo D. Martinez. Your presence is **MANDATORY** unless Counsel for Plaintiff(s) and Defendant(s) have in place a pre-trial guideline order with both Counsel and Judge's signatures prior to calendar call date. This guideline order should have all appropriate dates including pre-trial, jury selection and all deadlines.

You may download the Pretrial Guideline Order at our website:

http://www.webbcountytx.gov/CountyCourtatLaw1/Forms/PreTrialGuidelineOrder_CCLI.pdf

Counsel for Plaintiff(s) please note that if you do not appear for calendar call your case may be dismissed for lack of prosecution.

Counsel for Defendant(s) please note that if you do not appear for calendar call, a pre-trial guideline order may be entered with or without your approval and/or signature.

If there are any questions regarding this matter please feel free to call our office at any time.

A handwritten signature in black ink, appearing to read "Joanne J. Inguanzo", written over a horizontal line.

Joanne J. Inguanzo
Civil/Family Court Coordinator
County Court at Law No. 1

Handwritten initials in black ink, possibly "JC", located below the signature block.